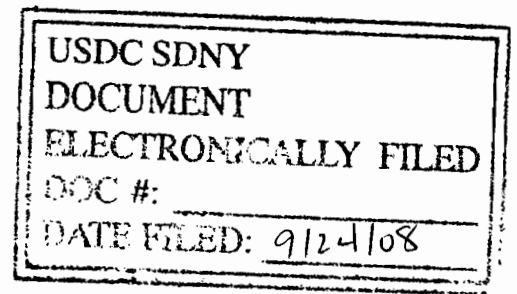


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK



-----X  
RICHARD KIMBLE, : 05 Civ. 8161 (SHS)

Petitioner, :

-against- : ORDER

WILLIAM BROWN, Superintendent of Eastern :  
Correctional Facility, :

Respondent. :  
-----X

SIDNEY H. STEIN, U.S. District Judge.

In a Report and Recommendation dated July 25, 2008, Magistrate Judge Douglas F. Eaton recommended that this petition for a writ of *habeas corpus* be denied. After a *de novo* review of Magistrate Judge Eaton's Report and Recommendation dated July 25, 2008, and petitioner's "Objection to Magistrate Judge Douglas F. Eaton Report and Recommendation to District Judge Stein" dated August 22, 2008,

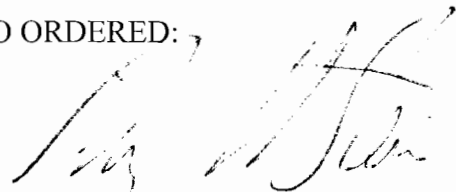
IT IS HEREBY ORDERED that:

1. Magistrate Judge Eaton's "Report and Recommendation" is adopted;
2. The petition pursuant to 28 U.S.C. § 2254 is dismissed;
3. As petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue. 28 U.S.C. § 2253; see also Richardson v. Greene, 497 F.3d 212, 217 (2d Cir. 2007); and

4. Pursuant to 28 U.S.C. § 1915(a) the Court certifies that any appeal from this Order would not be taken in good faith.

Dated: New York, New York  
September 22, 2008

SO ORDERED:



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Sidney H. Stein, U.S.D.J.